

**RULES
OF
TENNESSEE TREASURY DEPARTMENT
RETIREMENT DIVISION**

**CHAPTER 1700-3-1
TENNESSEE CONSOLIDATED RETIREMENT SYSTEM**

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1700-3-1-.01 DELINQUENT CONTRIBUTION PAYMENTS WHERE MEMBERSHIP IS A CONDITION OF EMPLOYMENT AND EMPLOYEE WAS NOT PROPERLY REPORTED.

- (1) Any employee who was required to be a member of the Tennessee Consolidated Retirement System as a condition of employment may elect to establish retirement credit for the periods of service in which the employee was not reported as a member under the following conditions:
 - (a) The failure to report the employee was due to an administrative error and the employee was without fault or knowledge of the same;
 - (b) The employing department or agency certifies to the Retirement Division the periods of service and the employee's salary during such periods; and
 - (c) The employee pays to the Retirement Division the contributions the employee would have made had the employee been reported during the period claimed, plus interest at the rate of seven and one-half percent (7½%) per annum from the date the contributions would have been made through the date of payment.

Authority: T.C.A. §§8-34-313, 8-35-101, 8-35-203(a)(1), and 8-37-214. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Amendment filed August 16, 1996; effective December 27, 1996.

1700-3-1-.02 OMISSION FROM ACTUARIAL STUDY.

- (1) Whenever a political subdivision extends coverage to its employees and discovers there were some employees who were erroneously omitted from the actuarial study, the employees will be allowed to be covered and receive whatever prior service the governing body authorized under the following conditions:

(Rule 1700-3-1-.02, continued)

- (a) The responsible official is requested to furnish this office with a letter explaining that the affected employees were omitted from the actuarial study through error; and
- (b) The political subdivision will assume the increase in the employer liability by adding the omitted employees.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-.03 PENALTY ASSESSMENT.

- (1) The amount set forth in T.C.A. § 8-37-504 will be assessed by the Retirement Division against any employer who fails twice during any twenty-four month period to forward payroll data, or to pay the requisite amount of contributions to the Retirement Division. An employer will be deemed to have failed to forward the above whenever a contribution report is postmarked after the tenth day of the month following the month in which contributions are deducted or ten (10) calendar days after the contribution report form is mailed to the employer by the Retirement Division, if later.
- (2) A warning letter will be sent to the employer by the Retirement Division the first time a contribution report or payment is late during any twenty-four month period. The letter will inform the employer that an amount will be assessed if another report or payment is late during the twenty-four month period.
- (3) Any amount assessed hereunder may be waived by the Director of the Retirement Division upon presentation of adequate documentation from the employer indicating the report and/or payment was late because of a unique problem or situation.

Authority: T.C.A. §§8-34-313, 8-37-502, 8-37-503, and 8-37-504. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Amendment filed August 16, 1996; effective December 27, 1996.

1700-3-1-.04 REPEALED.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Repeal by Public Chapter 575; effective July 1, 1986.

1700-3-1-.05 ISSUANCE OF CHECK FOR MONTH OF DEATH. All retirement allowances shall be payable in equal monthly installments and shall cease in the month in which the payee dies, unless otherwise specifically provided for in T.C.A., Title 8, Chapters 34-37. A retirement allowance shall be issued for the month in which the payee dies and shall be paid in accordance with T.C.A. §8-36-120.

Authority: T.C.A. §§8-34-313 and 8-34-101(34). **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Amendment filed August 16, 1996; effective December 27, 1996.

1700-3-1-.06 REPEALED.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Repeal by Public Chapter 575; effective July 1, 1986.

1700-3-1-.07 COMPUTATION OF BENEFITS. When retirement benefits are computed in accordance with T.C.A. § 8-36-110, and such computation results in a total benefit which is less than the benefit determined on total years of service under Group 1, the retirement allowance payable to such member shall be the benefit determined under Group 1 using the total years of service from all classes or systems. This shall apply to Group 2, Group 3 and all superseded systems except for Prior Class B limited where the member chooses to only contribute on the first \$4,200 of annual salary.

(Rule 1700-3-1-.07, continued)

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-.08 APPEAL OF DISABILITY DENIALS. If a disability applicant is denied, an appeal must be filed within ninety (90) days after notification of the denial has been made. If an appeal is not filed within this period, the right to appeal the original application is waived. This does not prohibit the member from filing a new disability application at a later date.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-.09 DISABILITY RETIREES REQUIRED TO SUBMIT REPORT OF ANNUAL EARNINGS. Any disability retiree who fails to submit a report of annual earnings within ninety (90) days after the initial request shall have his retirement benefits suspended until the report of annual earnings is received. If the report is subsequently submitted and the earnings do not exceed the applicable limit, benefits will be paid retroactive to the date benefits were suspended.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-.10 SUSPENSION OF DISABILITY BENEFITS. If a disability retiree is re-evaluated and it is determined that the retiree's condition has improved to the extent that he no longer qualifies for disability benefits, the benefits shall be suspended at the end of the month next following the completion of the re-evaluation.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-.11 COST OF LIVING ADJUSTMENTS FOR RETIREE WHO RETURNS TO SERVICE. Any retiree who returns to service and subsequently retires again will not be eligible for a cost of living adjustment unless such person has been in receipt of a retirement allowance at any time during the twelve (12) months immediately preceding the date on which the cost of living adjustment is granted.

Authority: T.C.A. §§8-34-313, 8-36-701, 8-36-801, 8-36-802, and 8-36-803. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Amendment filed August 16, 1996; effective December 27, 1996.

1700-3-1-.12 CHANGE FROM REGULAR PLAN OR SOCIAL SECURITY LEVELING TO AN OPTIONAL RETIREMENT PLAN. T.C.A. § 8-36-603 allows a retired member who did not elect an option to do so after retirement in favor of a beneficiary. If the retiree originally selected the regular plan or social security leveling, he may change from such plan to an optional form of retirement (Options I-IV) by making a payment equal to the difference in benefits received and the optional plan. However, a retiree cannot change from the regular or maximum plan to social security leveling.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-.13 CHANGE OF RETIREMENT PLAN WITHIN SIXTY (60) DAYS AFTER EFFECTIVE DATE OF RETIREMENT OR THE DATE OF THE RETIREMENT NOTICE LETTER. Any recently retired member who has been put on retirement benefits having selected either the regular or maximum plan, social security leveling, or an optional form of retirement and who wishes to change to a different plan of retirement may do so provided the member notifies the Retirement Division within sixty (60) days after the member's effective date of retirement or the date of the retirement notice letter, provided the member repays to the Retirement Division any benefit overpayment resulting from the change. In computing the period of time prescribed in this rule, the first day (effective date of retirement or date on the notice letter) shall be excluded and the last day of the period is to be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

(Rule 1700-3-1.13, continued)

Authority: T.C.A. §§8-34-313 and 8-36-605. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Amendment filed August 16, 1996; effective December 27, 1996. Amendment filed July 31, 2001; effective November 28, 2001.

1700-3-1.14 SOCIAL SECURITY LEVELING. In order to select the social security leveling plan of retirement, a member must have accumulated, at the time of retirement, sufficient quarters of coverage under Title II of the Federal Social Security Act to qualify for social security benefits.

Authority: T.C.A. §§8-34-313 and 8-36-101. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Repeal by Public Chapter 575; effective July 1, 1986. New rule filed August 16, 1996; effective December 27, 1996.

1700-3-1.15 LUMP SUM PAYMENTS FOR LEAVE OR COMPENSATORY TIME. If a member, upon termination of employment, is compensated for the member's unused accumulated leave or compensatory time in a lump sum, no retirement contributions are to be submitted and no retirement credit will be granted for that payment. The purpose of this rule is to prevent an artificial inflation of an employee's average final compensation upon which the employee's retirement benefit calculation will be based.

Authority: T.C.A. §§8-34-313 and 8-34-101(14). **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Repeal by Public Chapter 575; effective July 1, 1986. New rule filed August 16, 1996; effective December 27, 1996.

1700-3-1.16 PAYMENT OF ACCUMULATED UNUSED SICK LEAVE UPON DEATH OF AN EMPLOYEE. Whenever a deceased member's unused accumulated sick leave is paid by the member's employer to the member's estate or to a beneficiary designated by the member for such payment, the payment shall not be considered earnable compensation for retirement purposes. The payment is considered a form of a death benefit, and not payment of service earned by the member as in the case of annual leave. Although the payment is not considered earnable compensation for retirement purposes, the unused accumulated sick leave will be credited as service pursuant to T.C.A. § 8-34-604 and used in the benefit calculation of any monthly retirement annuity which may be due upon the member's death. If a monthly annuity is available, the date of retirement will become effective following the payment of any annual leave. This rule shall not apply to any member who is covered under the provisions of T.C.A. § 8-35-118, or under T.C.A., Part 3, Chapter 35, Title 8.

Authority: T.C.A. §§8-34-313 and 8-34-101(14). **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Amendment filed August 16, 1996; effective December 27, 1996.

1700-3-1.17 REPEALED.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Repeal by Public Chapter 575; effective July 1, 1986.

1700-3-1.18 REPEALED.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981. Repeal by Public Chapter 575; effective July 1, 1986.

1700-3-1.19 POLITICAL SUBDIVISIONS' BENEFIT COVERAGE FOR EMPLOYEES. Whenever a political subdivision is participating in the retirement system but has not provided retirement coverage for all its departments and upon the decision of the governing body to provide retirement coverage to all the remaining departments, then the employees of the remaining departments shall be under the same terms, conditions, and eligibility requirements of those employees already participating in the retirement system.

Authority: T.C.A. §8-34-313. **Administrative History:** Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-20 COLLECTION OF OVERPAYMENTS. If a retired member or beneficiary is overpaid, an automatic payroll deduction may be initiated if arrangements for repayment are not made after contacting the member three (3) times. The deduction cannot be less than 5% of the member's benefit or \$10.00, whichever is greater.

Authority: T.C.A. §8-34-313. *Administrative History:* Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-21 DISABILITY BENEFITS FOR HANDICAPPED EMPLOYEES. Employees that have a handicap at the time of their employment will not be eligible for disability benefits based on that condition unless the medical evidence documents that the pre-existing condition has deteriorated thereby rendering the person unemployable.

Authority: T.C.A. § 8-34-313. *Administrative History:* Original rule filed June 30, 1981; effective August 19, 1981.

1700-3-1-22 EFFECTIVE DATE OF MEMBERSHIP. The membership of an employee in the retirement system shall be effective as of the first date for which employee or employer contributions are made for service rendered by the employee, provided such contributions are not later withdrawn.

Authority: T.C.A. §§8-34-313, Title 8, Chapter 35, Part 1, and Title 8, Chapter 37, Part 2. *Administrative History:* Original rule filed September 30, 1982; effective November 1, 1982.

1700-3-1-23 WAIVER OF WAITING PERIOD FOR MEMBERSHIP. Any political subdivision which has a temporary period of employment pursuant to T.C.A. § 8-35-107 may, at its option, waive such waiting period for all employees who are already members of the retirement system by virtue of other employment. Such waiver shall be in the form prescribed by the Board of Trustees.

Authority: T.C.A. §§8-34-313 and 8-35-107. *Administrative History:* Original rule filed September 30, 1982; effective November 1, 1982.

1700-3-1-24 ESTABLISHING CREDITABLE SERVICE. A retired member may establish additional creditable service if such service was creditable on the member's date of retirement and is creditable at the time it is claimed. Benefits for such additional service shall not commence until the Retirement Division receives an application for the additional service with proof that the retired member meets the statutory requirements to qualify for the service. Service credit authorized by legislation enacted after a member's retirement shall not be creditable, unless the legislation specifically provides that it applies to the retired member. A member may establish additional creditable service if such service is creditable at the time it is claimed. A member shall not be deemed to have claimed the service until the Retirement Division receives an application for the additional service with proof that the member meets the statutory requirements to qualify for the service.

Authority: T.C.A. §§8-34-313 and 8-37-214. *Administrative History:* Original rule filed September 30, 1982; effective November 1, 1982. Amendment filed August 16, 1996; effective December 27, 1996.

1700-3-1-25 ESTABLISHING DATE OF RETIREMENT. For purposes of determining rights of beneficiaries pursuant to T.C.A. § § 8-36-107 and 8-36-109, a member shall be considered retired when he (1) terminates employment, (2) files an application for retirement, and (3) first receives benefits via direct deposit or three days have elapsed since the first benefit check was mailed. For the purposes of this rule, it shall be presumed that the check is mailed on the date indicated on the face of the check, unless shown to the contrary by competent evidence.

Authority: T.C.A. §§8-34-313, 8-36-107, and 8-36-109. *Administrative History:* Original rule filed September 30, 1982; effective November 1, 1982.

1700-3-1-.26 BENEFITS FOR AGED STATE EMPLOYEES AND TEACHERS. Former state employees and teachers claiming service under T.C.A. § 8-39-101 or 8-39-102 shall be entitled to benefits from the date the application and certification is received or upon attainment of age 65, whichever is later.

Authority: T.C.A. §§8-34-313, 8-39-101, and 8-39-102. *Administrative History:* Original rule filed September 30, 1982; effective November 1, 1982.

1700-3-1-.27 CHANGE OF BENEFICIARY AFTER RETIREMENT. Any employee retired on the maximum plan may change his or her beneficiary by filing the appropriate form prescribed by the Board of Trustees. Any employee retired on an optional plan may change his or her beneficiary upon the death of the beneficiary. Such newly elected beneficiary shall only be entitled to any remaining accumulated contributions upon the death of the member.

Authority: T.C.A. §§8-34-313, 8-35-104, and 8-37-212(c). *Administrative History:* Original rule filed September 30, 1982; effective November 1, 1982.

1700-3-1-.28 REPEALED.

Authority: T.C.A. §§8-34-313, 8-36-107, and 8-36-109. *Administrative History:* Original rule filed September 30, 1982; effective November 1, 1982. Repeal by Public Chapter 575; effective July 1, 1986.

1700-3-1-.29 PURCHASE OF PRIOR SERVICE THROUGH MONTHLY INSTALLMENTS. A member or retired member of the Tennessee Consolidated Retirement System may establish retirement credit through monthly installments pursuant to T.C.A. § 8-37-220. The Retirement Division may begin accepting monthly installment payments pursuant to said Section effective January 1, 1997. The minimum amount of the monthly payments shall be determined by the Retirement Division, provided such amount is not less than fifty dollars and no cents (\$50.00) per month.

Authority: T.C.A. §§8-34-313, 8-37-214, 8-37-220, and Chapter 660 of the Tennessee Public Acts of 1996. *Administrative History:* Original rule filed August 16, 1996; effective December 27, 1996. Amendment filed August 31, 2001; effective December 28, 2001.

1700-3-1-.30 DIRECT DEPOSIT OF BENEFITS.

- (1) Except as provided in Paragraphs (2) and (4) of this rule below, all monthly benefits payable under the provisions of T.C.A., Title 8, Chapters 34 – 37 shall be paid to recipients by electronic funds transfer. Each recipient of such payments shall complete an electronic funds transfer form as prescribed by the Retirement System whereon the recipient shall:
 - (a) designate one financial institution to which such payments shall be made; and
 - (b) provide to the Retirement Division the payment information necessary for the recipient to receive electronic funds transfer payments through the institution so designated.
- (2) The Retirement Division shall waive the application of Paragraph (1) of this rule if the recipient objects to receiving the benefits by electronic funds transfer and agrees to pay the Retirement Division a reasonable fee to cover the Division's cost of processing and issuing a check. The written certification must also contain an acknowledgement by the recipient that the Division will subtract the amount of the fee from the funds due the recipient. The Retirement Division shall set the amount of the fee and may revise the same from time to time to reflect increases in postage, mailing and handling. The fee set by the Retirement Division shall not be less than fifty cents nor more than three times the first class mail postage rate.
- (3) Should a recipient fail or refuse to return to the Retirement Division a properly completed electronic funds transfer form described in Paragraph (1) or fail to provide a written certification as prescribed in

(Rule 1700-3-1-.30, continued)

Paragraph (2), then the Retirement Division may apply the fee deduction pursuant to Paragraph (2) above.

- (4) The requirements of Paragraph (1) of this rule shall not apply during any time period during which the benefits are required to be paid to: (i) the Internal Revenue Service on account of a tax levy, (ii) a court official under an Order of Assignment for Child Support, (iii) a Chapter Thirteen Trustee on account of a bankruptcy order, or (iv) under any other order for which the benefits can be legally assigned, attached or garnished.
- (5) For purposes of this rule, the term "electronic funds transfer" means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term also includes, but is not limited to, Automated Clearing House transfers and Fed Wire transfers.
- (6) The application of this rule may be phased in by the Retirement Division as administratively practical.

Authority: T.C.A. §§8-34-313 and 8-36-117(b). **Administrative History:** Original rule filed August 31, 2001; effective December 28, 2001.

1700-3-1-.31 EXAMINATION OF EMPLOYER RECORDS. All books, records and documents relative to the employment and/or compensation of employees of any employer participating in the Retirement System or of any instrumentality created by any one (1) or more such employers shall be subject to examination by the Retirement System during normal business hours through on-site review. In the alternative, and in the Retirement System's sole discretion, such records may be provided through the mail or other methods of data transmission. The examination may be conducted by personnel of the Retirement System, the Office of the Comptroller of the Treasury or a licensed independent certified public accountant selected by the Retirement System. Such examinations shall take place as often as necessary, and to the extent necessary, in the discretion of the Retirement System, to determine compliance with the laws governing the Retirement System.

Authority: T.C.A. §§8-34-313, 8-34-301, 8-34-314, 8-34-318, and 8-35-205. **Administrative History:** Original rule filed July 31, 2001; effective November 28, 2001.